

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LEON L. KESSLER,

Petitioner,

MEMORANDUM & ORDER
08-CV-2332 (JS)

-against-

DAVID A. ROCK,

Respondent.

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APPEARANCES

For Petitioner: Leon L. Kessler, Pro Se
01A6107
Attica Correctional Facility
Box 149
Attica, NY 14011-0149

For Respondent: Paul B. Lyons, Esq.
Office of the New York State Attorney General
120 Broadway
New York, NY 10271

SEYBERT, District Judge:

On June 6, 2008, Leon L. Kessler ("Petitioner") filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner states that he had been unlawfully subject to a post-release supervision period after his sentencing in violation of Petitioner's fourteenth amendment rights. Petitioner has not stated any grounds for his application other than his concerns regarding the post-release supervision period.¹

On January 5, 2009, Respondent moved to dismiss on the

¹ The instant petition is Petitioner's second application. Petitioner previously filed an application for a writ of habeas corpus on other grounds, which was dismissed on the merit by the Honorable Arthur D. Spatt on April 4, 2006. See Kessler v. Bennett, No. 05-CV-0851.

grounds that Petitioner's application is moot. Respondent indicates that Petitioner has been re-sentenced to his original sentence, and the period of post-release supervision has been removed. The motion is unopposed.

Because Petitioner is no longer subject to post-release supervision, there are no claims in Petitioner's application for this Court to address. Thus, the Court dismisses the petition for a writ of habeas corpus as moot.

CONCLUSION

For the reasons stated above, the Court DISMISSES Petitioner's application for a writ of habeas corpus as moot. The Clerk of the Court is directed to mark this matter closed and terminate all pending motions. The Court will not issue a certificate of appealability.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
May 22, 2009